

1 AN ACT in relation to vehicles.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Boat Registration and Safety Act is amended
5 by changing Sections 5-2, 5-16, 6-1, 11A-3, 11A-4, and 11A-5 as
6 follows:

7 (625 ILCS 45/5-2) (from Ch. 95 1/2, par. 315-2)

8 Sec. 5-2. Reckless operation.

9 (a) No person shall operate any watercraft, specialty
10 prop-craft, personal watercraft or manipulate any water skis,
11 aquaplane, or similar device in such a manner as to willfully
12 or wantonly endanger the life, limb or property of any person,
13 to weave through congested traffic, to jump the wake of another
14 vessel unreasonably or unnecessarily close to the other vessel
15 or when visibility around the other vessel is obstructed, to
16 wait until the last possible moment to swerve to avoid
17 collision, or operate any watercraft so as to approach or pass
18 another watercraft in such a manner or at such a rate of speed
19 as to create a hazardous wake or wash.

20 (b) A person convicted of committing a violation of this
21 Section shall be guilty of aggravated reckless operation of a
22 watercraft if the violation of this Section resulted in great
23 bodily harm or permanent disability or disfigurement of
24 another, when the violation was a proximate cause of the
25 injuries.

26 (Source: P.A. 87-798.)

27 (625 ILCS 45/5-16)

28 Sec. 5-16. Operating a watercraft under the influence of
29 alcohol, other drug, or combination thereof.

30 (A) 1. A person shall not operate or be in actual physical
31 control of any watercraft within this State while:

1 (a) The alcohol concentration in such person's
2 blood or breath is a concentration at which driving a
3 motor vehicle is prohibited under subdivision (1) of
4 subsection (a) of Section 11-501 of the Illinois
5 Vehicle Code;

6 (b) Under the influence of alcohol;

7 (c) Under the influence of any other drug or
8 combination of drugs to a degree which renders such
9 person incapable of safely operating any watercraft;

10 (d) Under the combined influence of alcohol and any
11 other drug or drugs to a degree which renders such
12 person incapable of safely operating a watercraft; or

13 (e) There is any amount of a drug, substance, or
14 compound in the person's blood or urine resulting from
15 the unlawful use or consumption of cannabis as defined
16 in the Cannabis Control Act or a controlled substance
17 listed in the Illinois Controlled Substances Act.

18 2. The fact that any person charged with violating this
19 Section is or has been legally entitled to use alcohol, or
20 other drugs, or any combination of both, shall not
21 constitute a defense against any charge of violating this
22 Section.

23 3. Every person convicted of violating this Section
24 shall be guilty of a Class A misdemeanor, except as
25 otherwise provided in this Section.

26 4. Every person convicted of violating this Section
27 shall be guilty of a Class 4 felony if:

28 (a) He has a previous conviction under this
29 Section;

30 (b) The offense results in personal injury where a
31 person other than the operator suffers great bodily
32 harm or permanent disability or disfigurement, when
33 the violation was a proximate cause of the injuries. A
34 person guilty of a Class 4 felony under this
35 subparagraph (b), if sentenced to a term of
36 imprisonment, shall be sentenced to a term of not less

1 than one year nor more than 12 years; or

2 (c) The offense occurred during a period in which
3 his or her privileges to operate a watercraft are
4 revoked or suspended, and the revocation or suspension
5 was for a violation of this Section or was imposed
6 under subsection (B).

7 5. Every person convicted of violating this Section
8 shall be guilty of a Class 2 felony if the offense results
9 in the death of a person. A person guilty of a Class 2
10 felony under this paragraph 5, if sentenced to a term of
11 imprisonment, shall be sentenced to a term of not less than
12 3 years and not more than 14 years.

13 6. (a) In addition to any criminal penalties imposed,
14 the Department of Natural Resources shall suspend the
15 watercraft operation privileges of any person
16 convicted or found guilty of a misdemeanor under this
17 Section, or a similar provision of a local ordinance or
18 Title 46, Part A, Chapter 23, Section 2302 of the U.S.
19 Code of Federal Regulations, for a period of one year,
20 except that a first time offender who is placed on
21 court supervision is exempt from this mandatory one
22 year suspension.

23 (b) In addition to any criminal penalties imposed,
24 the Department of Natural Resources shall suspend the
25 watercraft operation privileges of any person
26 convicted of a felony under this Section, or a similar
27 provision of a local ordinance or federal law, or
28 Section 9-3 of the Criminal Code, for a period of 3
29 years.

30 (B) 1. Any person who operates or is in actual physical
31 control of any watercraft upon the waters of this State
32 shall be deemed to have given consent to a chemical test or
33 tests of blood, breath or urine for the purpose of
34 determining the alcohol, other drug, or combination
35 thereof content of such person's blood if arrested for any
36 offense of subsection (A) above. The test or tests shall be

1 administered at the direction of the arresting officer.

2 2. Any person who is dead, unconscious or who is
3 otherwise in a condition rendering such person incapable of
4 refusal, shall be deemed not to have withdrawn the consent
5 provided above.

6 3. A person requested to submit to a test as provided
7 above shall be verbally advised by the law enforcement
8 officer requesting the test that a refusal to submit to the
9 test will result in suspension of such person's privilege
10 to operate a watercraft. Following this warning, if a
11 person under arrest refuses upon the request of a law
12 enforcement officer to submit to a test designated by the
13 officer, none shall be given, but the law enforcement
14 officer shall file with the clerk of the circuit court for
15 the county in which the arrest was made, a sworn statement
16 naming the person refusing to take and complete the test or
17 tests requested under the provisions of this Section. Such
18 sworn statement shall identify the arrested person, such
19 person's current residence address and shall specify that a
20 refusal by such person to take the test or tests was made.
21 Such sworn statement shall include a statement that the
22 arresting officer had reasonable cause to believe the
23 person was operating or was in actual physical control of
24 the watercraft within this State while under the influence
25 of alcohol, other drug, or combination thereof and that
26 such test or tests were made as an incident to and
27 following the lawful arrest for an offense as defined in
28 this Section or a similar provision of a local ordinance,
29 and that the person after being arrested for an offense
30 arising out of acts alleged to have been committed while so
31 operating or in actual physical control of a watercraft
32 refused to submit to and complete a test or tests as
33 requested by the law enforcement officer.

34 The clerk shall thereupon notify such person in writing
35 that the person's privilege to operate a watercraft will be
36 suspended unless, within 28 days from the date of mailing

1 of the notice, such person shall request in writing a
2 hearing thereon; if the person desires a hearing, such
3 person shall file a complaint in the circuit court for and
4 in the county in which such person was arrested for such
5 hearing. Such hearing shall proceed in the court in the
6 same manner as other civil proceedings, shall cover only
7 the issues of whether the person was placed under arrest
8 for an offense as defined in this Section or a similar
9 provision of a local ordinance as evidenced by the issuance
10 of a uniform citation; whether the arresting officer had
11 reasonable grounds to believe that such person was
12 operating or was in actual physical control of a watercraft
13 while under the influence of alcohol, other drug, or
14 combination thereof; and whether such person refused to
15 submit and complete the test or tests upon the request of
16 the law enforcement officer. Whether the person was
17 informed that such person's privilege to operate a
18 watercraft would be suspended if such person refused to
19 submit to the test or tests shall not be an issue.

20 If the court finds against the person on the issues
21 before the court, the clerk shall immediately notify the
22 Department of Natural Resources of the court's decision,
23 and the Department shall suspend the watercraft operation
24 privileges of the person for at least 2 years.

25 4. A person must submit to each test offered by the law
26 enforcement officer in order to comply with the implied
27 consent provisions of this Section.

28 5. The provisions of Section 11-501.2 of the Illinois
29 Vehicle Code, as amended, concerning the certification and
30 use of chemical tests apply to the use of such tests under
31 this Section.

32 (C) Upon the trial of any civil or criminal action or
33 proceeding arising out of acts alleged to have been committed
34 by any person while operating or in actual physical control of
35 a watercraft while under the influence of alcohol, the
36 concentration of alcohol in the person's blood or breath at the

1 time alleged as shown by analysis of a person's blood, urine,
2 breath, or other bodily substance shall give rise to the
3 presumptions specified in subdivisions 1, 2, and 3 of
4 subsection (b) of Section 11-501.2 of the Illinois Vehicle
5 Code. The foregoing provisions of this subsection (C) shall not
6 be construed as limiting the introduction of any other relevant
7 evidence bearing upon the question whether the person was under
8 the influence of alcohol.

9 (D) If a person under arrest refuses to submit to a
10 chemical test under the provisions of this Section, evidence of
11 refusal shall be admissible in any civil or criminal action or
12 proceeding arising out of acts alleged to have been committed
13 while the person under the influence of alcohol, or other
14 drugs, or combination of both was operating or was in actual
15 physical control of a watercraft.

16 (E) The owner of any watercraft or any person given
17 supervisory authority over a watercraft, may not knowingly
18 permit a watercraft to be operated by any person under the
19 influence of alcohol, other drug, or combination thereof.

20 (F) Whenever any person is convicted of a violation of this
21 Section, the court shall notify the Division of Law Enforcement
22 of the Department of Natural Resources, to provide the
23 Department with the records essential for the performance of
24 the Department's duties to monitor and enforce any order of
25 suspension or revocation concerning the privilege to operate a
26 watercraft.

27 (G) No person who has been arrested and charged for
28 violating paragraph 1 of subsection (A) of this Section shall
29 operate or be in actual physical control of any watercraft
30 within this State for a period of 6 hours after such arrest.

31 (Source: P.A. 92-615, eff. 1-1-03.)

32 (625 ILCS 45/6-1) (from Ch. 95 1/2, par. 316-1)

33 Sec. 6-1. Collisions, accidents, and casualties; reports.

34 A. The operator of a vessel involved in a collision,
35 accident, or other casualty, so far as he can without serious

1 danger to his own vessel, crew, passengers and guests, if any,
2 shall render to other persons affected by the collision,
3 accident, or other casualty assistance as may be practicable
4 and as may be necessary in order to save them from or minimize
5 any danger caused by the collision, accident, or other
6 casualty, and also shall give his name, address, and
7 identification of his vessel to any person injured and to the
8 owner of any property damaged in the collision, accident, or
9 other casualty.

10 If the collision, accident, or other casualty has resulted
11 in the death of or personal injury to any person, failure to
12 comply with this subsection A is a Class A misdemeanor.

13 A-1. Any operator of a vessel that either (1) is used by
14 its operator for recreational purposes or (2) is required to be
15 numbered by or under the authority of this State, who has
16 failed to stop or to comply with the requirements of subsection
17 A must, as soon as possible but in no case later than one hour
18 after the collision, accident, or other casualty, or, if
19 hospitalized and incapacitated from reporting at any time
20 during that period, as soon as possible but in no case later
21 than one hour after being discharged from the hospital, report
22 the date, place, and approximate time of the collision,
23 accident, or other casualty, the watercraft operator's name and
24 address, the identification number of the watercraft, if any,
25 and the names of all other occupants of the watercraft, at a
26 police station or sheriff's office near the location where the
27 collision, accident, or other casualty occurred. A report made
28 as required under this subsection A-1 may not be used, directly
29 or indirectly, as a basis for the prosecution of any violation
30 of subsection A.

31 As used in this Section, "personal injury" means any injury
32 requiring medical treatment beyond first aid.

33 Any person failing to comply with this subsection A-1 is
34 guilty of a Class 4 felony if the collision, accident, or other
35 casualty does not result in the death of any person. Any person
36 failing to comply with this subsection A-1 when the collision,

1 accident, or other casualty results in the death of any person
2 is guilty of a Class 2 felony, for which the person, if
3 sentenced to a term of imprisonment, shall be sentenced to a
4 term of not less than 3 years and not more than 14 years.

5 B. In the case of collision, accident, or other casualty
6 involving a vessel, the operator, if the collision, accident,
7 or other casualty results in death or injury to a person or
8 damage to property in excess of \$2,000 or there is a complete
9 loss of the vessel \$500, shall file with the Department a full
10 description of the collision, accident, or other casualty,
11 including information as the Department may by regulation
12 require. Reports of the accidents must be filed with the
13 Department on a Department Accident Report form within 5 days.

14 C. Reports of accidents resulting in personal injury, where
15 a person sustains an injury requiring medical attention beyond
16 first aid is incapacitated for a period exceeding 72 hours,
17 must be filed with the Department on a Department Accident
18 Report form within 5 days. Accidents that result in loss of
19 life shall be reported to the Department on a Department form
20 within 48 hours.

21 D. All required accident reports and supplemental reports
22 are without prejudice to the individual reporting, and are for
23 the confidential use of the Department, except that the
24 Department may disclose the identity of a person involved in an
25 accident when the identity is not otherwise known or when the
26 person denies his presence at the accident. No report to the
27 Department may be used as evidence in any trial, civil or
28 criminal, arising out of an accident, except that the
29 Department must furnish upon demand of any person who has or
30 claims to have made a report or upon demand of any court a
31 certificate showing that a specified accident report has or has
32 not been made to the Department solely to prove a compliance or
33 a failure to comply with the requirements that a report be made
34 to the Department.

35 E. (1) Every coroner or medical examiner shall on or before
36 the 10th day of each month report in writing to the

1 Department the circumstances surrounding the death of any
2 person that has occurred as the result of a boating
3 accident within the examiner's jurisdiction during the
4 preceding calendar month.

5 (2) Within 6 hours after a death resulting from a
6 boating accident, but in any case not more than 12 hours
7 after the occurrence of the boating accident, a blood
8 specimen of at least 10 cc shall be withdrawn from the body
9 of the decedent by the coroner or medical examiner or by a
10 qualified person at the direction of the physician. All
11 morticians shall obtain a release from the coroner or
12 medical examiner prior to proceeding with embalming any
13 body coming under the scope of this Section. The blood so
14 drawn shall be forwarded to a laboratory approved by the
15 Department of State Police for analysis of the alcoholic
16 content of the blood specimen. The coroner or medical
17 examiner causing the blood to be withdrawn shall be
18 notified of the results of each analysis made and shall
19 forward the results of each analysis to the Department. The
20 Department shall keep a record of all examinations to be
21 used for statistical purposes only. The cumulative results
22 of the examinations, without identifying the individuals
23 involved, shall be disseminated and made public by the
24 Department.

25 (Source: P.A. 91-828, eff. 1-1-01.)

26 (625 ILCS 45/11A-3) (from Ch. 95 1/2, par. 321A-3)

27 Sec. 11A-3. Any person who violates any of the provisions
28 of Section 5-1 ~~or 5-2~~ of this Act is guilty of a Class B
29 misdemeanor.

30 Any person who violates Section 5-2 of this Act is guilty
31 of a Class A misdemeanor, except that aggravated reckless
32 operation of a watercraft is a Class 4 felony.

33 (Source: P.A. 85-149.)

34 (625 ILCS 45/11A-4) (from Ch. 95 1/2, par. 321A-4)

1 Sec. 11A-4. Any person who is convicted of a violation of
2 Sections 5-1,~~5-2~~ or 11A-5 of this Act, in addition to any
3 other penalties authorized in this Act, may in the discretion
4 of the court be refused the privilege of operating any
5 watercraft on any of the waterways of this State for a period
6 of not less than one year.

7 Any person who is convicted of a violation of Section 5-2
8 of this Act or subsection A-1 of Section 6-1 of this Act, in
9 addition to any other penalties authorized in this Act, shall
10 have his or her privilege of operating any watercraft on any of
11 the waterways of this State suspended by the Department for a
12 period of not less than one year.

13 (Source: P.A. 85-149.)

14 (625 ILCS 45/11A-5) (from Ch. 95 1/2, par. 321A-5)

15 Sec. 11A-5. A person may not operate a watercraft during
16 the time that the person's privilege to operate a watercraft is
17 suspended or revoked in this State, by another state, or by a
18 federal agency. Any person who operates any watercraft during
19 the period when he is denied the privilege to so operate is
20 guilty of a Class A misdemeanor for a first offense and a Class
21 4 felony for a second or subsequent offense.

22 (Source: P.A. 85-149.)

23 Section 10. The Unified Code of Corrections is amended by
24 changing Section 5-5-3 as follows:

25 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

26 Sec. 5-5-3. Disposition.

27 (a) Every person convicted of an offense shall be sentenced
28 as provided in this Section.

29 (b) The following options shall be appropriate
30 dispositions, alone or in combination, for all felonies and
31 misdemeanors other than those identified in subsection (c) of
32 this Section:

33 (1) A period of probation.

1 (2) A term of periodic imprisonment.

2 (3) A term of conditional discharge.

3 (4) A term of imprisonment.

4 (5) An order directing the offender to clean up and
5 repair the damage, if the offender was convicted under
6 paragraph (h) of Section 21-1 of the Criminal Code of 1961.

7 (6) A fine.

8 (7) An order directing the offender to make restitution
9 to the victim under Section 5-5-6 of this Code.

10 (8) A sentence of participation in a county impact
11 incarceration program under Section 5-8-1.2 of this Code.

12 Whenever an individual is sentenced for an offense based
13 upon an arrest for a violation of Section 11-501 of the
14 Illinois Vehicle Code, or a similar provision of a local
15 ordinance, and the professional evaluation recommends remedial
16 or rehabilitative treatment or education, neither the
17 treatment nor the education shall be the sole disposition and
18 either or both may be imposed only in conjunction with another
19 disposition. The court shall monitor compliance with any
20 remedial education or treatment recommendations contained in
21 the professional evaluation. Programs conducting alcohol or
22 other drug evaluation or remedial education must be licensed by
23 the Department of Human Services. However, if the individual is
24 not a resident of Illinois, the court may accept an alcohol or
25 other drug evaluation or remedial education program in the
26 state of such individual's residence. Programs providing
27 treatment must be licensed under existing applicable
28 alcoholism and drug treatment licensure standards.

29 In addition to any other fine or penalty required by law,
30 any individual convicted of a violation of Section 11-501 of
31 the Illinois Vehicle Code or a similar provision of local
32 ordinance, whose operation of a motor vehicle while in
33 violation of Section 11-501 or such ordinance proximately
34 caused an incident resulting in an appropriate emergency
35 response, shall be required to make restitution to a public
36 agency for the costs of that emergency response. Such

1 restitution shall not exceed \$500 per public agency for each
2 such emergency response. For the purpose of this paragraph,
3 emergency response shall mean any incident requiring a response
4 by: a police officer as defined under Section 1-162 of the
5 Illinois Vehicle Code; a fireman carried on the rolls of a
6 regularly constituted fire department; and an ambulance as
7 defined under Section 3.85 ~~4.05~~ of the Emergency Medical
8 Services (EMS) Systems Act.

9 Neither a fine nor restitution shall be the sole
10 disposition for a felony and either or both may be imposed only
11 in conjunction with another disposition.

12 (c) (1) When a defendant is found guilty of first degree
13 murder the State may either seek a sentence of imprisonment
14 under Section 5-8-1 of this Code, or where appropriate seek
15 a sentence of death under Section 9-1 of the Criminal Code
16 of 1961.

17 (2) A period of probation, a term of periodic
18 imprisonment or conditional discharge shall not be imposed
19 for the following offenses. The court shall sentence the
20 offender to not less than the minimum term of imprisonment
21 set forth in this Code for the following offenses, and may
22 order a fine or restitution or both in conjunction with
23 such term of imprisonment:

24 (A) First degree murder where the death penalty is
25 not imposed.

26 (B) Attempted first degree murder.

27 (C) A Class X felony.

28 (D) A violation of Section 401.1 or 407 of the
29 Illinois Controlled Substances Act, or a violation of
30 subdivision (c) (1) or (c) (2) of Section 401 of that Act
31 which relates to more than 5 grams of a substance
32 containing heroin or cocaine or an analog thereof.

33 (E) A violation of Section 5.1 or 9 of the Cannabis
34 Control Act.

35 (F) A Class 2 or greater felony if the offender had
36 been convicted of a Class 2 or greater felony within 10

1 years of the date on which the offender committed the
2 offense for which he or she is being sentenced, except
3 as otherwise provided in Section 40-10 of the
4 Alcoholism and Other Drug Abuse and Dependency Act.

5 (G) Residential burglary, except as otherwise
6 provided in Section 40-10 of the Alcoholism and Other
7 Drug Abuse and Dependency Act.

8 (H) Criminal sexual assault, except as otherwise
9 provided in subsection (e) of this Section.

10 (I) Aggravated battery of a senior citizen.

11 (J) A forcible felony if the offense was related to
12 the activities of an organized gang.

13 Before July 1, 1994, for the purposes of this
14 paragraph, "organized gang" means an association of 5
15 or more persons, with an established hierarchy, that
16 encourages members of the association to perpetrate
17 crimes or provides support to the members of the
18 association who do commit crimes.

19 Beginning July 1, 1994, for the purposes of this
20 paragraph, "organized gang" has the meaning ascribed
21 to it in Section 10 of the Illinois Streetgang
22 Terrorism Omnibus Prevention Act.

23 (K) Vehicular hijacking.

24 (L) A second or subsequent conviction for the
25 offense of hate crime when the underlying offense upon
26 which the hate crime is based is felony aggravated
27 assault or felony mob action.

28 (M) A second or subsequent conviction for the
29 offense of institutional vandalism if the damage to the
30 property exceeds \$300.

31 (N) A Class 3 felony violation of paragraph (1) of
32 subsection (a) of Section 2 of the Firearm Owners
33 Identification Card Act.

34 (O) A violation of Section 12-6.1 of the Criminal
35 Code of 1961.

36 (P) A violation of paragraph (1), (2), (3), (4),

1 (5), or (7) of subsection (a) of Section 11-20.1 of the
2 Criminal Code of 1961.

3 (Q) A violation of Section 20-1.2 of the Criminal
4 Code of 1961.

5 (R) A violation of Section 24-3A of the Criminal
6 Code of 1961.

7 (S) A violation of Section 11-501(c-1)(3) of the
8 Illinois Vehicle Code.

9 (3) A minimum term of imprisonment of not less than 5
10 days or 30 days of community service as may be determined
11 by the court shall be imposed for a second violation
12 committed within 5 years of a previous violation of Section
13 11-501 of the Illinois Vehicle Code or a similar provision
14 of a local ordinance. In the case of a third or subsequent
15 violation committed within 5 years of a previous violation
16 of Section 11-501 of the Illinois Vehicle Code or a similar
17 provision of a local ordinance, a minimum term of either 10
18 days of imprisonment or 60 days of community service shall
19 be imposed.

20 (4) A minimum term of imprisonment of not less than 10
21 consecutive days or 30 days of community service shall be
22 imposed for a violation of paragraph (c) of Section 6-303
23 of the Illinois Vehicle Code.

24 (4.1) A minimum term of 30 consecutive days of
25 imprisonment, 40 days of 24 hour periodic imprisonment or
26 720 hours of community service, as may be determined by the
27 court, shall be imposed for a violation of Section 11-501
28 of the Illinois Vehicle Code during a period in which the
29 defendant's driving privileges are revoked or suspended,
30 where the revocation or suspension was for a violation of
31 Section 11-501 or Section 11-501.1 of that Code.

32 (4.2) Except as provided in paragraph (4.3) of this
33 subsection (c), a minimum of 100 hours of community service
34 shall be imposed for a second violation of Section 6-303 of
35 the Illinois Vehicle Code.

36 (4.3) A minimum term of imprisonment of 30 days or 300

1 hours of community service, as determined by the court,
2 shall be imposed for a second violation of subsection (c)
3 of Section 6-303 of the Illinois Vehicle Code.

4 (4.4) Except as provided in paragraph (4.5) and
5 paragraph (4.6) of this subsection (c), a minimum term of
6 imprisonment of 30 days or 300 hours of community service,
7 as determined by the court, shall be imposed for a third or
8 subsequent violation of Section 6-303 of the Illinois
9 Vehicle Code.

10 (4.5) A minimum term of imprisonment of 30 days shall
11 be imposed for a third violation of subsection (c) of
12 Section 6-303 of the Illinois Vehicle Code.

13 (4.6) A minimum term of imprisonment of 180 days shall
14 be imposed for a fourth or subsequent violation of
15 subsection (c) of Section 6-303 of the Illinois Vehicle
16 Code.

17 (5) The court may sentence an offender convicted of a
18 business offense or a petty offense or a corporation or
19 unincorporated association convicted of any offense to:

20 (A) a period of conditional discharge;

21 (B) a fine;

22 (C) make restitution to the victim under Section
23 5-5-6 of this Code.

24 (5.1) In addition to any penalties imposed under
25 paragraph (5) of this subsection (c), and except as
26 provided in paragraph (5.2) or (5.3), a person convicted of
27 violating subsection (c) of Section 11-907 of the Illinois
28 Vehicle Code shall have his or her driver's license,
29 permit, or privileges suspended for at least 90 days but
30 not more than one year, if the violation resulted in damage
31 to the property of another person.

32 (5.2) In addition to any penalties imposed under
33 paragraph (5) of this subsection (c), and except as
34 provided in paragraph (5.3), a person convicted of
35 violating subsection (c) of Section 11-907 of the Illinois
36 Vehicle Code shall have his or her driver's license,

1 permit, or privileges suspended for at least 180 days but
2 not more than 2 years, if the violation resulted in injury
3 to another person.

4 (5.3) In addition to any penalties imposed under
5 paragraph (5) of this subsection (c), a person convicted of
6 violating subsection (c) of Section 11-907 of the Illinois
7 Vehicle Code shall have his or her driver's license,
8 permit, or privileges suspended for 2 years, if the
9 violation resulted in the death of another person.

10 (6) In no case shall an offender be eligible for a
11 disposition of probation or conditional discharge for a
12 Class 1 felony committed while he was serving a term of
13 probation or conditional discharge for a felony.

14 (7) When a defendant is adjudged a habitual criminal
15 under Article 33B of the Criminal Code of 1961, the court
16 shall sentence the defendant to a term of natural life
17 imprisonment.

18 (8) When a defendant, over the age of 21 years, is
19 convicted of a Class 1 or Class 2 felony, after having
20 twice been convicted in any state or federal court of an
21 offense that contains the same elements as an offense now
22 classified in Illinois as a Class 2 or greater Class felony
23 and such charges are separately brought and tried and arise
24 out of different series of acts, such defendant shall be
25 sentenced as a Class X offender. This paragraph shall not
26 apply unless (1) the first felony was committed after the
27 effective date of this amendatory Act of 1977; and (2) the
28 second felony was committed after conviction on the first;
29 and (3) the third felony was committed after conviction on
30 the second. A person sentenced as a Class X offender under
31 this paragraph is not eligible to apply for treatment as a
32 condition of probation as provided by Section 40-10 of the
33 Alcoholism and Other Drug Abuse and Dependency Act.

34 (9) A defendant convicted of a second or subsequent
35 offense of ritualized abuse of a child may be sentenced to
36 a term of natural life imprisonment.

1 (10) When a person is convicted of violating Section
2 11-501 of the Illinois Vehicle Code or a similar provision
3 of a local ordinance, the following penalties apply when
4 his or her blood, breath, or urine was .16 or more based on
5 the definition of blood, breath, or urine units in Section
6 11-501.2 or that person is convicted of violating Section
7 11-501 of the Illinois Vehicle Code while transporting a
8 child under the age of 16:

9 (A) For a first violation of subsection (a) of
10 Section 11-501, in addition to any other penalty that
11 may be imposed under subsection (c) of Section 11-501:
12 a mandatory minimum of 100 hours of community service
13 and a minimum fine of \$500.

14 (B) For a second violation of subsection (a) of
15 Section 11-501, in addition to any other penalty that
16 may be imposed under subsection (c) of Section 11-501
17 within 10 years: a mandatory minimum of 2 days of
18 imprisonment and a minimum fine of \$1,250.

19 (C) For a third violation of subsection (a) of
20 Section 11-501, in addition to any other penalty that
21 may be imposed under subsection (c) of Section 11-501
22 within 20 years: a mandatory minimum of 90 days of
23 imprisonment and a minimum fine of \$2,500.

24 (D) For a fourth or subsequent violation of
25 subsection (a) of Section 11-501: ineligibility for a
26 sentence of probation or conditional discharge and a
27 minimum fine of \$2,500.

28 (11) A person may not receive a disposition of court
29 supervision for a violation of Section 5-16 of the Boat
30 Registration and Safety Act if that person has previously
31 received a disposition of court supervision for a violation
32 of that Section.

33 (d) In any case in which a sentence originally imposed is
34 vacated, the case shall be remanded to the trial court. The
35 trial court shall hold a hearing under Section 5-4-1 of the
36 Unified Code of Corrections which may include evidence of the

1 defendant's life, moral character and occupation during the
2 time since the original sentence was passed. The trial court
3 shall then impose sentence upon the defendant. The trial court
4 may impose any sentence which could have been imposed at the
5 original trial subject to Section 5-5-4 of the Unified Code of
6 Corrections. If a sentence is vacated on appeal or on
7 collateral attack due to the failure of the trier of fact at
8 trial to determine beyond a reasonable doubt the existence of a
9 fact (other than a prior conviction) necessary to increase the
10 punishment for the offense beyond the statutory maximum
11 otherwise applicable, either the defendant may be re-sentenced
12 to a term within the range otherwise provided or, if the State
13 files notice of its intention to again seek the extended
14 sentence, the defendant shall be afforded a new trial.

15 (e) In cases where prosecution for criminal sexual assault
16 or aggravated criminal sexual abuse under Section 12-13 or
17 12-16 of the Criminal Code of 1961 results in conviction of a
18 defendant who was a family member of the victim at the time of
19 the commission of the offense, the court shall consider the
20 safety and welfare of the victim and may impose a sentence of
21 probation only where:

22 (1) the court finds (A) or (B) or both are appropriate:

23 (A) the defendant is willing to undergo a court
24 approved counseling program for a minimum duration of 2
25 years; or

26 (B) the defendant is willing to participate in a
27 court approved plan including but not limited to the
28 defendant's:

29 (i) removal from the household;

30 (ii) restricted contact with the victim;

31 (iii) continued financial support of the
32 family;

33 (iv) restitution for harm done to the victim;

34 and

35 (v) compliance with any other measures that
36 the court may deem appropriate; and

1 (2) the court orders the defendant to pay for the
2 victim's counseling services, to the extent that the court
3 finds, after considering the defendant's income and
4 assets, that the defendant is financially capable of paying
5 for such services, if the victim was under 18 years of age
6 at the time the offense was committed and requires
7 counseling as a result of the offense.

8 Probation may be revoked or modified pursuant to Section
9 5-6-4; except where the court determines at the hearing that
10 the defendant violated a condition of his or her probation
11 restricting contact with the victim or other family members or
12 commits another offense with the victim or other family
13 members, the court shall revoke the defendant's probation and
14 impose a term of imprisonment.

15 For the purposes of this Section, "family member" and
16 "victim" shall have the meanings ascribed to them in Section
17 12-12 of the Criminal Code of 1961.

18 (f) This Article shall not deprive a court in other
19 proceedings to order a forfeiture of property, to suspend or
20 cancel a license, to remove a person from office, or to impose
21 any other civil penalty.

22 (g) Whenever a defendant is convicted of an offense under
23 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
24 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
25 of the Criminal Code of 1961, the defendant shall undergo
26 medical testing to determine whether the defendant has any
27 sexually transmissible disease, including a test for infection
28 with human immunodeficiency virus (HIV) or any other identified
29 causative agent of acquired immunodeficiency syndrome (AIDS).
30 Any such medical test shall be performed only by appropriately
31 licensed medical practitioners and may include an analysis of
32 any bodily fluids as well as an examination of the defendant's
33 person. Except as otherwise provided by law, the results of
34 such test shall be kept strictly confidential by all medical
35 personnel involved in the testing and must be personally
36 delivered in a sealed envelope to the judge of the court in

1 which the conviction was entered for the judge's inspection in
2 camera. Acting in accordance with the best interests of the
3 victim and the public, the judge shall have the discretion to
4 determine to whom, if anyone, the results of the testing may be
5 revealed. The court shall notify the defendant of the test
6 results. The court shall also notify the victim if requested by
7 the victim, and if the victim is under the age of 15 and if
8 requested by the victim's parents or legal guardian, the court
9 shall notify the victim's parents or legal guardian of the test
10 results. The court shall provide information on the
11 availability of HIV testing and counseling at Department of
12 Public Health facilities to all parties to whom the results of
13 the testing are revealed and shall direct the State's Attorney
14 to provide the information to the victim when possible. A
15 State's Attorney may petition the court to obtain the results
16 of any HIV test administered under this Section, and the court
17 shall grant the disclosure if the State's Attorney shows it is
18 relevant in order to prosecute a charge of criminal
19 transmission of HIV under Section 12-16.2 of the Criminal Code
20 of 1961 against the defendant. The court shall order that the
21 cost of any such test shall be paid by the county and may be
22 taxed as costs against the convicted defendant.

23 (g-5) When an inmate is tested for an airborne communicable
24 disease, as determined by the Illinois Department of Public
25 Health including but not limited to tuberculosis, the results
26 of the test shall be personally delivered by the warden or his
27 or her designee in a sealed envelope to the judge of the court
28 in which the inmate must appear for the judge's inspection in
29 camera if requested by the judge. Acting in accordance with the
30 best interests of those in the courtroom, the judge shall have
31 the discretion to determine what if any precautions need to be
32 taken to prevent transmission of the disease in the courtroom.

33 (h) Whenever a defendant is convicted of an offense under
34 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
35 defendant shall undergo medical testing to determine whether
36 the defendant has been exposed to human immunodeficiency virus

1 (HIV) or any other identified causative agent of acquired
2 immunodeficiency syndrome (AIDS). Except as otherwise provided
3 by law, the results of such test shall be kept strictly
4 confidential by all medical personnel involved in the testing
5 and must be personally delivered in a sealed envelope to the
6 judge of the court in which the conviction was entered for the
7 judge's inspection in camera. Acting in accordance with the
8 best interests of the public, the judge shall have the
9 discretion to determine to whom, if anyone, the results of the
10 testing may be revealed. The court shall notify the defendant
11 of a positive test showing an infection with the human
12 immunodeficiency virus (HIV). The court shall provide
13 information on the availability of HIV testing and counseling
14 at Department of Public Health facilities to all parties to
15 whom the results of the testing are revealed and shall direct
16 the State's Attorney to provide the information to the victim
17 when possible. A State's Attorney may petition the court to
18 obtain the results of any HIV test administered under this
19 Section, and the court shall grant the disclosure if the
20 State's Attorney shows it is relevant in order to prosecute a
21 charge of criminal transmission of HIV under Section 12-16.2 of
22 the Criminal Code of 1961 against the defendant. The court
23 shall order that the cost of any such test shall be paid by the
24 county and may be taxed as costs against the convicted
25 defendant.

26 (i) All fines and penalties imposed under this Section for
27 any violation of Chapters 3, 4, 6, and 11 of the Illinois
28 Vehicle Code, or a similar provision of a local ordinance, and
29 any violation of the Child Passenger Protection Act, or a
30 similar provision of a local ordinance, shall be collected and
31 disbursed by the circuit clerk as provided under Section 27.5
32 of the Clerks of Courts Act.

33 (j) In cases when prosecution for any violation of Section
34 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
35 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
36 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal

1 Code of 1961, any violation of the Illinois Controlled
2 Substances Act, or any violation of the Cannabis Control Act
3 results in conviction, a disposition of court supervision, or
4 an order of probation granted under Section 10 of the Cannabis
5 Control Act or Section 410 of the Illinois Controlled Substance
6 Act of a defendant, the court shall determine whether the
7 defendant is employed by a facility or center as defined under
8 the Child Care Act of 1969, a public or private elementary or
9 secondary school, or otherwise works with children under 18
10 years of age on a daily basis. When a defendant is so employed,
11 the court shall order the Clerk of the Court to send a copy of
12 the judgment of conviction or order of supervision or probation
13 to the defendant's employer by certified mail. If the employer
14 of the defendant is a school, the Clerk of the Court shall
15 direct the mailing of a copy of the judgment of conviction or
16 order of supervision or probation to the appropriate regional
17 superintendent of schools. The regional superintendent of
18 schools shall notify the State Board of Education of any
19 notification under this subsection.

20 (j-5) A defendant at least 17 years of age who is convicted
21 of a felony and who has not been previously convicted of a
22 misdemeanor or felony and who is sentenced to a term of
23 imprisonment in the Illinois Department of Corrections shall as
24 a condition of his or her sentence be required by the court to
25 attend educational courses designed to prepare the defendant
26 for a high school diploma and to work toward a high school
27 diploma or to work toward passing the high school level Test of
28 General Educational Development (GED) or to work toward
29 completing a vocational training program offered by the
30 Department of Corrections. If a defendant fails to complete the
31 educational training required by his or her sentence during the
32 term of incarceration, the Prisoner Review Board shall, as a
33 condition of mandatory supervised release, require the
34 defendant, at his or her own expense, to pursue a course of
35 study toward a high school diploma or passage of the GED test.
36 The Prisoner Review Board shall revoke the mandatory supervised

1 release of a defendant who wilfully fails to comply with this
2 subsection (j-5) upon his or her release from confinement in a
3 penal institution while serving a mandatory supervised release
4 term; however, the inability of the defendant after making a
5 good faith effort to obtain financial aid or pay for the
6 educational training shall not be deemed a wilful failure to
7 comply. The Prisoner Review Board shall recommit the defendant
8 whose mandatory supervised release term has been revoked under
9 this subsection (j-5) as provided in Section 3-3-9. This
10 subsection (j-5) does not apply to a defendant who has a high
11 school diploma or has successfully passed the GED test. This
12 subsection (j-5) does not apply to a defendant who is
13 determined by the court to be developmentally disabled or
14 otherwise mentally incapable of completing the educational or
15 vocational program.

16 (k) A court may not impose a sentence or disposition for a
17 felony or misdemeanor that requires the defendant to be
18 implanted or injected with or to use any form of birth control.

19 (l) (A) Except as provided in paragraph (C) of subsection
20 (l), whenever a defendant, who is an alien as defined by
21 the Immigration and Nationality Act, is convicted of any
22 felony or misdemeanor offense, the court after sentencing
23 the defendant may, upon motion of the State's Attorney,
24 hold sentence in abeyance and remand the defendant to the
25 custody of the Attorney General of the United States or his
26 or her designated agent to be deported when:

27 (1) a final order of deportation has been issued
28 against the defendant pursuant to proceedings under
29 the Immigration and Nationality Act, and

30 (2) the deportation of the defendant would not
31 deprecate the seriousness of the defendant's conduct
32 and would not be inconsistent with the ends of justice.

33 Otherwise, the defendant shall be sentenced as
34 provided in this Chapter V.

35 (B) If the defendant has already been sentenced for a
36 felony or misdemeanor offense, or has been placed on

1 probation under Section 10 of the Cannabis Control Act or
2 Section 410 of the Illinois Controlled Substances Act, the
3 court may, upon motion of the State's Attorney to suspend
4 the sentence imposed, commit the defendant to the custody
5 of the Attorney General of the United States or his or her
6 designated agent when:

7 (1) a final order of deportation has been issued
8 against the defendant pursuant to proceedings under
9 the Immigration and Nationality Act, and

10 (2) the deportation of the defendant would not
11 deprecate the seriousness of the defendant's conduct
12 and would not be inconsistent with the ends of justice.

13 (C) This subsection (1) does not apply to offenders who
14 are subject to the provisions of paragraph (2) of
15 subsection (a) of Section 3-6-3.

16 (D) Upon motion of the State's Attorney, if a defendant
17 sentenced under this Section returns to the jurisdiction of
18 the United States, the defendant shall be recommitted to
19 the custody of the county from which he or she was
20 sentenced. Thereafter, the defendant shall be brought
21 before the sentencing court, which may impose any sentence
22 that was available under Section 5-5-3 at the time of
23 initial sentencing. In addition, the defendant shall not be
24 eligible for additional good conduct credit for
25 meritorious service as provided under Section 3-6-6.

26 (m) A person convicted of criminal defacement of property
27 under Section 21-1.3 of the Criminal Code of 1961, in which the
28 property damage exceeds \$300 and the property damaged is a
29 school building, shall be ordered to perform community service
30 that may include cleanup, removal, or painting over the
31 defacement.

32 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
33 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.
34 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,
35 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;
36 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.

1 7-19-02; revised 2-17-03.)